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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/202,216 04/08/99 ATARASHI

T Q52648

EXAMINER

HM22/1121

SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037

WARE, T	
ART UNIT	PAPER NUMBER

1615

DATE MAILED:

11/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademark

Office Action Summary	Application No. 09/202,216	Applicant(s) ATARASHI ET AL.	
	Examiner Todd D Ware	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1) ☐ Responsive to communication(s) filed on 28 September 2000.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-7 and 9-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-7 and 9-12 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:

1. ☐ received.

2. ☐ received in Application No. (Series Code / Serial Number) _____

3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>g</u>	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 20) <input type="checkbox"/> Other:
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DETAILED ACTION

Receipt of request for extension of time (granted) and request for reconsideration both filed 8-3-00 and disclosure statement filed 9-28-00 is acknowledged. Based upon the following new grounds for rejection, this action is "non-final." Claims 1-12 are pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Clark et al (3,767,443; hereafter '443).

'443 discloses multilayer-coated powder pigments that can be used in cosmetic such as eye shadows, lipsticks and nail varnishes comprising a core coated with plural layers of a metal oxide and an organic film-forming substance. The plural layers of '443 have different refractive indices (abstract; C 9, L 45-46). The cores are made of polymers such as polyethylene terephthalate and the coated particles are comminuted into particles that are about 70 microns. The specific gravity of the instant claims would be inherent in the compositions of '443. The particles appear to be made of the same materials of the instant claims and are pulverized. The thickness of the coatings appears to satisfy the requirements of instant claim 12 (C 6, L 3-45).

Claim R jections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al (3,767,443; hereafter '443).

'443 discloses multilayer-coated powder pigments that can be used in cosmetic such as eye shadows, lipsticks and nail varnishes comprising a core coated with plural layers of a metal oxide and an organic film-forming substance. The plural layers of '443 have different refractive indices (abstract; C 9, L 45-46). The cores are made of polymers such as polyethylene terephthalate and the coated particles are comminuted into particles that are about 70 microns. The specific gravity of the instant claims would be inherent in the compositions of '443. The particles appear to be made of the same materials of the instant claims and are pulverized. Manipulation of the thickness of the coatings would be obvious to one skilled in the art based upon the teachings at C 6, L 3-45 with the expectation that this would alter the refractive index of the coatings and provide a desired color; the motivation lying therein.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd D Ware whose telephone number is (703) 305-1700. The examiner can normally be reached on 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on (703)308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are (703) for regular communications and (703) for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

tw
November 17, 2000

THURMAN K PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600